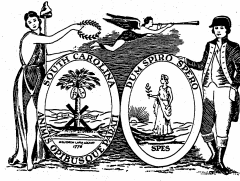


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SAMUEL L. WILKINS  
DIRECTOR

MEMORANDUM

To: Agency Heads and Human Resources Directors of All Agencies, Departments, Institutions of Higher Education, Boards and Commissions

From: Samuel L. Wilkins, Director  
Office of Human Resources

Date: June 28, 2007

Subject: Proviso Deleted from the 2007-2008 Appropriation Bill

By provisos initially included in the 2003-04 Appropriation Act, certain employees of the Offices of the Lieutenant Governor, Secretary of State, State Treasurer, Attorney General, Comptroller General, Superintendent of Education, Adjutant General, and the Commissioner of Agriculture were declared exempt from the provisions of the State Employee Grievance Procedure Act. Specifically, in these constitutional offices, all employees who report directly to the agency head or report directly to a person who reports to the agency head would no longer have grievance rights.

In addition, management employees having a similar reporting structure as noted above in the constitutional offices and employed by the Department of Alcohol and Other Drug Abuse Services, the Department of Commerce, the Department of Corrections, the Department of Health and Human Services, the Department of Insurance, the Department of Juvenile Justice, the Department of Labor, Licensing and Regulation, the Department of Parks, Recreation and Tourism, the Department of Probation, Parole, and Pardon Services, the Department of Revenue, the Department of Social Services, the State Law Enforcement Division, the Department of Motor Vehicles, and the Department of Public Safety were also declared exempt from the provisions of the State Employee Grievance Procedure Act.

You may recall that in subsequent fiscal years similar provisos were included in the Appropriation Act and continued to exempt certain employees in these agencies from the State Employee Grievance Procedure Act. The 2007-2008 Appropriation Bill, however, does not include a proviso exempting these employees except for employees in the Office of the Lieutenant Governor. In the Office of the Lieutenant Governor, employees who report directly to the Lt. Governor will remain exempt from the State Employee Grievance Procedure Act. Employees in all of the other agencies listed above who were exempt from the Grievance Procedure Act because of the provisos will be affected by this deletion.

When an employee moves from an uncovered position without grievance rights to a covered position with grievance rights, the employee must successfully complete a probationary period before attaining grievance rights. Therefore, effective July 1, 2007, employees in positions previously affected by the provisos must serve a 12-month

probationary period before attaining grievance rights. The probationary period for these employees will run from July 1, 2007, through June 30, 2008. State Human Resources Regulations allows an agency head to count up to six months of prior service toward completion of a probationary period under certain circumstances. The same analysis applies in the event of a reassignment, demotion, transfer, or reorganization which affects an employee's grievance rights. As such, agency heads at their discretion may count up to six months of prior service toward completion of the probationary period for these employees.

It is important to note that some employees exempted by proviso were also exempted from the State Employee Grievance Procedure Act as found in §8-17-370 of the S.C. Code of Laws. These employees will not be affected by the deletion of the proviso from the 2007-2008 Appropriation Bill and will continue to remain exempt from the provisions of the State Employee Grievance Procedure Act.

The following is a list of issues related to this change. In addition, we are including suggestions and other considerations to assist agencies, impacted by the proviso deletion, in addressing each of these issues.

#### **Communication by the Agency to Affected Employees**

OHR recommends that, employees previously exempted by proviso, be notified by the agency that they are serving a probationary period. The 12-month probationary period for these employees will run from July 1, 2007, through June 30, 2008. A sample letter created by OHR is attached to assist agencies in communicating these changes to affected employees.

#### **Organizational Charts**

Agencies are required by §1-1-970 of the S.C. Code of Laws to provide organizational charts to OHR. Agencies were asked to delineate on organizational charts, when the proviso was in effect, those employees/positions within the agency which were exempt from the State Employee Grievance Procedure Act. Positions occupied by employees, formerly exempt from the Grievance Act by proviso, will need to be updated at the conclusion of the employee's probationary period. Unoccupied positions may be updated immediately.

#### **Human Resources Information System (HRIS)**

HRIS has an established field in the Classified and Unclassified position record entitled "Exem Grv" which tracks employees exempt from the State Employee Grievance Procedure Act. Positions occupied by employees, formerly exempt from the Grievance Act by proviso, will need to be updated at the conclusion of the employee's probationary period. Unoccupied positions may be updated immediately.

OHR will continue to produce a quarterly report that will be sent to agencies to verify that all positions exempt from the State Employee Grievance Procedure Act are properly indicated on HRIS. An agency's data entry in this field will be used to assist OHR in tracking those state employees who are exempt from the State Employee Grievance Procedure Act.

#### **Policy Implications**

##### **Employee Performance Management System:**

Employees no longer exempt from the State Employee Grievance Procedure Act will, if not already done, need a planning stage document so that an evaluation may be completed at the conclusion of their probationary period.

##### **Grievance:**

Agencies that have defined "covered employee" in their policy may need to ensure that the definition does not exclude employees previously exempted by proviso.

If you have any questions please call your Human Resources Consultant at (803) 737-0900.